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C O N F I D E N T I A L SECTION 01 OF 02 COLOMBO 001573

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FOR SA/INS

E.O. 12958: DECL:

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SUBJECT: Amendment limiting President's powers before Parliament soon; PA divided; alternatives considered

Ref: (A) Colombo 1555

(B) Colombo 1551

(C) Colombo 1441

(U) Classified by Lewis Amselem, DCM. Reasons 1.5 (b,d).

1. (C) Summary: A proposed amendment to limit the President's power to dissolve Parliament and to permit voting outside of party lines is to be considered this week. PA representatives split on the amendment. While supporting the amendment, minority parties still concerned with some issues. Alternatives to the amendment are still being considered. If the amendment passes it may have a profound long-term effect on Sri Lankan politics. End summary.

2. (U) The United National Front (UNF) is expected to table the 18th Amendment before Parliament on August 29. The amendment, as it is currently being discussed, will strip the President's power to dissolve Parliament one year after it was elected and will permit individuals to vote outside of party lines (commonly referred to as conscience voting).

3. (C) As recently as August 23, representatives of the People's Alliance (PA) maintained that the UNF could not get enough cross-over votes to pass the amendment (Ref A). Harim Peiris, the Presidential Spokesman, assured poloff that with the support of the minority parties aligned with the PA the amendment would fail. As of August 26, they are no longer as confident.

4. (C) The minority parties are divided on the issue. Members of the TNA have stated that they will vote with the UNF government in support of the amendment, despite their reservations. K. Ponnambalam summed up TNA concerns when he stated they did not support the sections of the amendment concerning conscience voting, but the TNA's distrust of the President was so great that they had to compromise. As a counterpoint, Douglas Devananda, Leader of the Eelam People's Democratic Party, states that his party will vote with the President. In addition, Devananda believes that the amendment will have to be presented before the Supreme Court, which will rule that the amendment must be put before the people as a referendum. Desmond Fernando, a highly regarded constitutional lawyer, confirmed that the amendment will have to go before the Supreme Court, but without seeing the final version of the amendment he was unwilling to speculate on whether or not a referendum would be needed. (Note: The constitution gives explicit instruction on which issues need a 2/3 majority in Parliament and which a referendum to come into law.)

5. (C) Despite the public debate on the expected amendment, there is no guarantee that the version finally submitted will match the contours of the current debate. Milinda Moragoda, Minister of Economic Reform, informed the DCM that the UNF might split the amendment into two separate amendments. A.M. Hizbullah a PA MP and Dayaratna of the Prime Minister's office, both state that the President's and Prime Minister's representatives are talking to each other about a compromise amendment. (Note: This coincides with what former Foreign Minister Kadirgamar told the Deputy Secretary last week, Ref A.) Hizbullah believes that

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they will, of necessity, find a compromise amendment to present to Parliament.

6. (C) Comment: Although much of the immediate focus is on limiting the President's power to dissolve Parliament, the possible inclusion of conscience voting may have a more substantial change in Sri Lankan politics. Currently party members are tied more to the party leader than their electorate. If a person were permitted to vote outside of party lines without being expelled from parliament their responsiveness to the community they represent may well increase. Having said that, what the amendment will actually have in it is

still speculation, the only issue that almost everyone seems to agree on is that Sri Lanka is not ready for another election in the near future. End Comment.

Wills